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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,673	10/24/2003	Hisanobu Asano	D-1532	6355

7590 12/06/2004  
Hauptman Kanesaka Berner Patent Agents LLP  
1700 Diagonal Road Suite 310  
Alexandria, VA 22314

EXAMINER

SCOTT, JAMES R

ART UNIT PAPER NUMBER

2832

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/691,673	<b>Applicant(s)</b> ASANO ET AL.	
	<b>Examiner</b> James R. Scott	<b>Art Unit</b> 2832	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/24/2003, 11/04/2003, 2/05/2004 and 8/12/.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10242003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings filed on 10/24/2003 are acceptable.

Note the attached form "Notice of Draftsperson's Patent Drawing Review," PTO-948.

### ***Specification***

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

Connection pin(s).

The specification and claims refer to connection pin(s) and lacks any recitation of a link shaft associated with the upper and lower toggle links.

Lever

The specification does not clearly state if the handle lever is a switching lever. The word handle appears to be used as a modifier to describe the type of lever throughout the specification.

***Claim Rejections - 35 USC § 112***

Claim 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, the word hatch should read as latch. The independent claim 1 appears to recite three different types of levers...a lever, a switching lever and a handle lever. Since the specification appears to recite the handle lever, and not the lever or a switching lever, it is not clearly understood if the lever and switching lever constitute the same lever as the handle lever or if the latter two mentioned levers; namely the lever and switching lever are different components. The arm connection point referred to in claim 1, line 14 does not appear to be described in the specification. It is not understood how the side plate supports the spring when the spring is disposed between the switching lever and the toggle linkage arm connection point. It is noted that arm is used as an antecedent for -- point--. What structure constitutes the arm?

Claims 2 and 3 are indefinite for the same reasons as claim 1.  
Appropriate correction is required.

Claims 1-3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### Cited References

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Japanese patent document constitutes prior art cited by applicant related to a circuit breaker mechanism.

Link et al is cited for disclosing the maintaining of a handle in the ON position when the contacts are welded. Casey et al disclose the use of an operating mechanism, which is moved to the tripped position if the contacts are welded. Ciarcia et al teaches the use of an actuator maintained in the ON position if the contacts are welded. Crookston et al disclose the use of an actuator mechanism including levers slidable in slots in the side plates and prevention of movement of the operating handle to the ON position if the contacts are welded. Note the toggle linkage and the "dog-bone" connection.

#### Summary

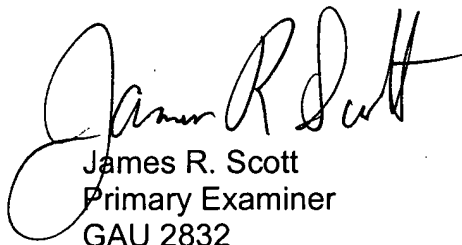
Claims 1-3 are rejected; however, these claims would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Scott whose telephone number is (571) 272-1999. The examiner can normally be reached on weekdays (Monday-Friday) between 1-5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRScott: jrs  
November 26, 2004



James R. Scott  
Primary Examiner  
GAU 2832